

Solicitor's Office Contingency Planning

In the event of a lapse of appropriations for the Department of the Interior, the Office of the Solicitor's (SOL) Continuity of Operations (COOP) Plan provides that the Solicitor will select members of the Solicitor's Emergency Management Council to remain on duty or report for duty. Under the SOL COOP Plan, the Solicitor's Emergency Management Council consists of two teams, the Executive Team and the Operations Team.¹ Except as described below, most employees will be furloughed for the duration of the shutdown.

We expect that the Solicitor's Office will complete shutdown activities within 1 half day following a lapse in funding. Of the 457 employees currently on board in the Office, the Solicitor and 8 additional employees would be immediately retained under our plan. However, as described below, any of our attorneys could be called to duty to manage litigation for which courts do not grant extensions, or in an emergency situation. While we have attempted to identify potential cases and attorneys in this category, we cannot foresee every possibility, and our plan should be viewed as an estimate.

The following information is provided consistent with OMB Circular A-11:

1. **Employees engaged in military, law enforcement, or direct provision of health care activities.** None of the employees in the Solicitor's Office are directly engaged in these exempt activities.
2. **Employees whose compensation is financed by a resource other than annual appropriations.** The following employees are paid from funding sources that do not lapse, and, to the extent that the funding agencies require their legal services, they will be retained in "on call" or duty status:
 - Funded by NBC with no-year funds: five attorneys.
 - Funded by BOEMRE with funds that will not lapse: two attorneys.
 - Funded by NRDA agreements and working on Oil Spill damage assessments: eight attorneys and one paralegal.
3. **Employees needed for response to emergencies involving the safety of human life or to protect property who are not otherwise exempt:** In accordance with opinions of the Attorney General, the Solicitor, as a Senate-confirmed appointee, is exempt from the constraints of the Anti-Deficiency Act in the event of a lapse of appropriations. In addition to the Solicitor, the following Solicitor's Office officials will be immediately and

¹ The Executive Team is headed by a Deputy Solicitor and includes all of the Deputy Solicitors except the Director of Administration, who will head the Operations Team; the Regional Solicitor – Rocky Mountain Region; the Special Assistant to the Solicitor; Executive Assistant to the Solicitor; the Confidential Assistant to the Solicitor, the Special Assistant to the Solicitor and the Staff Assistants to the Solicitor. In addition to the Director of Administration, the Operations Team includes the COO Coordinator, the Chief Information Officer, Chief, Resources Management and Administrative Operations, Records Management Leader, the Personnel Services Liaison, the Information Services Branch Leader, and the Facilities Management Team Leader. The Solicitor (or Acting Solicitor) provides overall direction to the Solicitor's Emergency Management Council.

indefinitely retained under this plan in the event of a lapse of appropriations in order to provide necessary support for the Secretary and the Department's excepted and ongoing functions:

- Executive Assistant to the Solicitor
- Deputy Solicitor for Energy & Minerals
- Deputy Solicitor for General Law
- Associate Solicitor for General Law
- Director of Administration
- Information Systems staff, Division of Administration
- Staff Attorney, Division of Parks & Wildlife
- Senior Staff Attorney, Division of Parks & Wildlife

If additional assistance is needed beyond the individuals identified above, the following managers will be called back to duty status for purposes of addressing essential functions:

- Principal Deputy Solicitor
- Deputy Solicitor for Land & Water
- Deputy Solicitor for Parks & Wildlife
- Deputy Solicitor for Indian Affairs
- Associate Solicitor for Mineral Resources
- Associate Solicitor for Parks & Wildlife
- Associate Solicitor for Indian Affairs
- Associate Solicitor for Land & Water

Other Litigation Considerations: We understand that the Department of Justice (DOJ) will manage litigation during a lapse of appropriations in the following way:

Criminal litigation will continue without interruption as an essential function.

Civil litigation will be curtailed or postponed, to the extent that courts will permit such an approach without harm to the interests of the United States. We expect DOJ to file motions seeking extensions or continuances as appropriate in all cases in which there are upcoming deadlines during the reasonably foreseeable duration of the appropriations lapse. Until such time as the court grants such motions, civil litigation will continue without interruption.

As a result, SOL attorneys with responsibility for such matters will be "on call" and directed to report for work during an appropriations lapse to perform such work as is necessary to support the subject litigation. The corresponding Deputy, Associate, or Assistant Solicitor with responsibility for managing these matters will be called back to duty status only to the extent necessary. We deem such activities to be essential to the protection of property, and also to be a necessary part of the Executive Branch's constitutional duty to comply with duly issued and binding orders from the Judicial Branch. Accordingly, we are maintaining a list of individuals who are expected to remain on duty or be recalled to duty if such extensions or continuances are not granted in upcoming Federal and state litigation, and will be updating this list as conditions warrant.